

money to students in the private schools. As a result, the majority of the money allocated for this program could possibly end up in private institutions. Up until now I've only talked about the operational difficulties, but what's more difficult for me to believe is the Constitutional question looking at LB 743. In 1974 the Supreme Court declared a 1972 statute providing tuition grants to students attending private colleges or universities unconstitutional. It was held in violation of Article 7, Section 11, of the Constitution. Following this the 1976 Legislature proposed an amendment, and I've talked about that, to the Constitution through LB 666 or amendment 6B. This amendment would have added a new Section 11A to Section 7 or Article 7 which would have specifically authorized the Legislature to provide financial aid to students attending nonpublic post secondary education institutions. This proposed amendment was voted down by the electorate. In the last few minutes I have pointed out to you the operational problems with 743, the Constitutional questions that it raises and the fact that the people in the State of Nebraska have said they do not want this type of legislation as they have shown when they voted against it in the concept that was presented in 1976. What's more the Coordinating Commission, and I read the transcript from the Committee, the State Board of trustees is in opposition to it. So, then who is really pushing 743? Let's bring it out in the open. Not the public institutions, not the voters, who then? Special interest groups, that's who. Those private institutions that have the most to gain from state tax dollars. I want to read to you. My time is almost up but I want to read to you from the Supreme Court from page 129, Volume 192. These are some words from the State Supreme Court relating to the same issue. "United Community Services versus the Omaha National Bank 56. In that case we held--and this is most important--that the Legislature cannot circumvent an express provision of the Constitution by doing indirectly what it may not do directly." The Constitution says no money to the private colleges and they have upheld that they are trying to do it indirectly instead of directly. Here the grant is not directly to the private school but rather to a student but it must be used for tuition in a private school. It is highly unconstitutional. I have a letter on my desk that I want to pass out to you. I've asked for an attorney general's opinion several weeks ago and I'm sorry I do not have the answer to that question but I'm sending out to you that letter that I wrote the Attorney General relating to this. Again, going on 129, while the tuition payments are to be made to the student, they must be used at a private institution in the state. Unconstitutional, it's held. That's what they said. I move that we indefinitely postpone 743.

PRESIDENT: Senator Dworak.

SENATOR DWORAK: Well, Mr. President and colleagues, I rise in support of the kill motion. I think that Senator Mills very eloquently has presented the case and a quick review, I think the fact that in 1975 the voters in the state of Nebraska said no to this very similar concept. I think